



DEFENCE FORCE REMUNERATION TRIBUNAL

TWENTY-THIRD REPORT

2007 – 2008

(Period from 1 July 2007 – 30 June 2008)



Australian Government

Defence Force Remuneration Tribunal

29 September 2008

The Hon Julia Gillard, MP
Minister for Education Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

My dear Minister,

I have pleasure in presenting to you the Twenty-Third Report of the Defence Force Remuneration Tribunal, which covers the period of the Tribunal's operations from 1 July 2007 to 30 June 2008.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R N Cartwright'.

The Honourable R N Cartwright
President

DEFENCE FORCE REMUNERATION TRIBUNAL

President: The Honourable R N Cartwright

Members: Mr G D John

Rear Admiral B L Adams AO, RAN (Ret'd)

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1. INTRODUCTION

The Tribunal has been operating for over 23 years, having been established in 1984 to determine the pay and allowances of members of the Australian Defence Force (ADF), considering the special nature of Defence Force service.

The functions of the Tribunal are set out in section 58H of the *Defence Act 1903* (the Act) as follows:

- “(a) inquire into and determine the salaries and relevant allowances to be paid to members; and*
- (b) inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal”.*

In addition, at the request of the Minister for Education Employment and Workplace Relations, the Tribunal shall inquire into and report on relevant matters.

Section 58H also provides:

“Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances:

- (a) within 2 years of the first-mentioned determination taking effect; or*
- (b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect - within that shorter period”.*

Section 58KD of the *Defence Act 1903* provides that:

“The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates”.

The relevant sections of the Act, which refer to the functions and powers of the Tribunal, are set out in **Appendix 1** to this Report.

The statement required in accordance with section 8 of the *Freedom of Information Act 1982* is included as **Appendix 2** to this Report.

2. MEMBERSHIP OF THE TRIBUNAL

The Tribunal consists of three members who are appointed by the Governor-General. In accordance with the relevant legislation the President is a presidential member of the Australian Industrial Relations Commission. The other members are a person who is experienced in industrial relations matters and a person who has been a member of the ADF.

The composition of the Tribunal at the time of this Report was:

President: The Honourable R N Cartwright

Member: Rear Admiral B L Adams AO, RAN (Ret'd)

The Honourable Robert Cartwright has been a presidential member of the Australian Industrial Relations Commission since February 2001. Prior to this appointment, he held a number of senior management positions in civil industry. Senior Deputy President Cartwright was appointed as President of the Tribunal by the Governor-General from 8 March 2004 to 7 March 2009.

Rear Admiral Brian Adams AO, RAN (Ret'd) served in the RAN from 1968 to 2005. His last two appointments in the ADF were as the Deputy Chief of Navy from 2000 to 2002 and Head of the Defence Personnel Executive from 2002 to 2005. The Governor-General in Council appointed Admiral Adams as a member of the Tribunal for a period of 5 years commencing on 1 August 2006.

Mr Greg John retired as a member of the Tribunal on 8 June 2008. He was appointed initially by the Governor-General for the period 8 March 2004 to 7 March 2008 and temporarily reappointed to the Tribunal by the Hon Julia Gillard MP, Minister for Education, Employment and Workplace Relations, for three months from 9 March 2008. Mr John was a director of an industrial relations consultancy and previously held senior management positions in both the public and private sectors.

A wealth of practical experience and Mr John's empathy for service life and conditions enabled him to make a lasting contribution to the operation of the Tribunal during a time of change. He was a valued member of the Tribunal and highly respected by all associated with its work.

3. THE PARTIES

The main parties in matters before the Tribunal are the ADF and the Commonwealth. The Returned and Services League of Australia (RSL) and the Regular Defence Force Welfare Association (RDFWA) seek leave to intervene in most matters coming before the Tribunal. The rights of parties to appear before the Tribunal are set out in section 58K of the *Defence Act 1903*.

The ADF is represented by the Defence Force Advocate whose roles and functions are set out in section 58T of the *Defence Act 1903* and include:

- “(a) to advise the Chief of the Defence Force in relation to matters that have been, or may be, referred to the Tribunal by the Chief of the Defence Force pursuant to subsection 58H(3);*
- (b) to prepare submissions to be made to the Tribunal on behalf of the Defence Force concerning any matter that is being considered by the Tribunal; and*
- (c) to represent the Defence Force in proceedings before the Tribunal”.*

The office of Defence Force Advocate has always been filled by eminent legal practitioners of high calibre. The present Defence Force Advocate is Mr Richard Kenzie QC who was originally appointed by the Minister for Defence Science and Personnel on 1 June 1996 and has been reappointed until 30 June 2011.

The Commonwealth is represented in proceedings before the Tribunal by the Department of Education, Employment and Workplace Relations. In the period of this report the Commonwealth was represented by Mr Mark O’Neill and assisted by Ms Katherine Gifford.

Group Captain Phil Morrall AM, CSC (Ret’d) has represented the Returned and Services League of Australia and the Regular Defence Force Welfare Association.

4. THE WORK OF THE TRIBUNAL

By the time this report is published, the Tribunal expects to have completed a program that has run for over four years to review almost all of the components of ADF remuneration within our jurisdiction.

The Tribunal is currently completing a review of the Other Ranks salary structure and contemporary placement of all the trades accommodated within it. At the same time, trainee pay arrangements are also under review for the first time in many years. This follows the introduction of new arrangements for senior officers, placement of all officers and warrant officers in new salary structures and a review of Reserve remuneration.

The ADF and Commonwealth are to be complimented on the scale of work undertaken, particularly in light of the difficulty in reforming a complex extant system. The co-operative approach taken by all parties has enabled timeframes to be compressed by comparison with past exercises, as has the willingness to adapt processes to suit the nature of the task. We particularly acknowledge with gratitude the engagement of the CDF and senior leadership of the ADF, giving the Tribunal confidence in the leadership team's ownership of the outcomes.

The mutual goal of those involved in this intensive work program has been to provide a coherent and contemporary salary system for the ADF. Certainly the Tribunal is conscious that the task is far from complete. While the salary structures might have been improved, the complexity of the total system is little less, fragmentation of its elements among various decision makers is not changed and nor is the difficulty in making external comparisons. In that respect the ADF is handicapped by absence of a remuneration policy which allows it to articulate what members are paid for and why, and to decide the best way to deliver the many benefits provided. Consequently, we observe that ADF members continue to have difficulty understanding the value of their total remuneration arrangements.

Superannuation is a case in point. In the commercial world, the level of employer contributions is relevant in assessing remuneration value. For the ADF this cost is high, by design. While the Australian Government Actuary most recently calculated the notional employer contribution rate for the military superannuation schemes at 26% per annum of member salary, we doubt it carries that value in members' eyes or that ADF members ascribe that value to the benefit when making external comparisons. These are the sorts of issues that the parties need to wrestle with in enunciating a remuneration policy and developing the expertise and tools to monitor the competitiveness of ADF remuneration.

In last year's report we quoted with approval the following submission:

“The nature of the skills, employment and environment in which ADF people work means that absolute comparisons are seldom possible; nevertheless, external comparators are important as they provide a key indication of the ADF's market position in terms of remuneration and whether it is competitive or not”.

We went on to comment:

“Accordingly, we encourage the parties appearing to develop expertise and ongoing methodology to monitor the competitiveness of ADF remuneration. We have previously observed that the structure of ADF remuneration is more complex than it need be, with multiple components, overseen by different decision makers. In that context, the need

for a cohesive remuneration policy to be applied across the various processes that determine the component parts is obvious, and urgent. So too, is the ongoing need for reliable market data to provide a sound basis for decisions, lest ADF pay be thought to be determined in a vacuum”.

All of the above continues to apply.

Further, Defence continues to be hampered by an inability to implement payroll changes quickly, to an extent that would be unacceptable in any other organisation. We can only empathise with the fall-out from this deficiency.

The parties also still have on the work agenda fresh thinking about the array of allowances. As we said last year, “... *there are opportunities to rationalise the myriad of disability allowances and levels into a simplified structure, involving less administrative overhead and a clearer rationale for ADF members*”.

These comments should not be seen as critical, but rather indicative of the aspirations of those involved to improve continually the operation of ADF remuneration. As our decisions indicate, the Tribunal is sceptical of using remuneration solutions for other problems, but we share the ADF’s intent to improve the quality of support it gives its people.

It is the ADF people who make this work worthwhile. We acknowledge with gratitude the contribution they make. We are continually impressed by their dedicated hard work in many fields, and by the ADF’s role in building skills, often scarce trade skills. Visits and inspections reinforce our confidence in the ADF’s ongoing contribution to our community. We thank all those members who have assisted us, for the time devoted to informing the Tribunal and for ADF members’ patience and enthusiasm in explaining their work to us. Particularly to those few who may get a hard time in the witness box, we are thankful.

At the back of this report we express our appreciation for the work of our Secretariat. The fact that it is at the back does not diminish its importance. A knowledgeable support team is critical for a part-time Tribunal, and we are well served indeed.

5. MATTERS CONSIDERED

A. Graded Officer Pay Structure (GOPS)

In February 2006 the Tribunal approved a new pay structure for officers, after several years of development. As a result, recipients of Submarine Service, Special Action Forces, Specialist Operations and Flying Allowances were placed within the 10 banded structure at substantive or transitional pay points, depending on their circumstances. At that stage other officers continued at Pay Grade 2, which equated to the former Officers' Common Scale.

The Australian Defence Force's (ADF) original intent was to populate the structure with officer employment groups on a case by case basis. This process began with DFRT hearings on Air Traffic Control and ADF Engineering officers in September and November 2006 respectively. Both submissions resulted in interim placements by the Tribunal. However, the Tribunal noted that there were difficulties in considering groups in isolation and that populating the structure through a series of individual cases would be slow. Therefore, the Tribunal sought a plan from the ADF to place all officer categories, taking account of relativities between officer groups.

Each Service developed placement proposals, considering its own workforce characteristics, capability and sustainability requirements and the relative workforce value of the employment groups. These provided the basis for the ADF's consolidated proposal.

In this case the ADF submitted, inter alia, that:

"The GOPS and the proposed placement of officers within it, had the following characteristics: ...

- *it responds to the unique features of the ADF as a workforce by:*
 - *acknowledging the need for the ADF to manage the differences associated with each Service where they occur;*
 - *accommodating the need to reward the military rank construct as well as differential value by different means;*
 - *comprehending the ADF concept of 'capability' and the nexus between capability and human capital by acknowledging the hierarchy created by the contribution of each employment group and military career milestone to capability;*
 - *acknowledging the ADF need for human capital with flexibility;*
 - *providing the means to recognise unique expertise in warfighting skills; and*
 - *providing the means to address the significant sustainability issues which arise in a closed workforce (noting in particular the unique and comprehensive training pipelines and emphasis on military experience).*
- *it is based on a new, common and informed understanding of the relationship between Rank and Differential value;*
- *it overcomes shortcomings identified in earlier remuneration reviews most significantly by the actual provision of differential pay placement (the RRP structure provided for most of the ADF population only the potential for differential placement);*

- *it is underpinned by a common set of robust Enterprise-level factors which inform ADF pay structure placement:*
 1. *Professional skills/competency: this includes expertise, problem solving and accountability;*
 2. *Additional value derived from the need to respond to capability demands which encompasses the importance of the work conducted by the employment group to the achievement and sustainability of ADF capability; and*
 3. *External market forces which informs on relevant rates payable in the broader labour market, as a snapshot from time to time.*
- *it is underpinned by a common set of principles in respect of the permanence of pay placement and the capacity to perform a range of work - and the need to look beyond a particular job at any particular time in favour of regarding classes of people in classes of jobs;*
- *it is a transparent arrangement, which in a practical and inaugural way provides incentive for the achievement of individual milestones that support the provision of ADF capability;*
- *it represents a collegiate approach to present internal relativities agreed at the very highest levels of the ADF (i.e. it has COSC endorsement);*
- *it represents an approach that enjoys a significant level of support from ADF members; and*
- *it is subject to the development of proper management principles.”*

It was proposed that the structure be populated in relative order by:

“Pay Grade 10:

- *The only employment group that populates Pay Grade 10 is ADF Aircrew with 10 years plus experience post wings. The group includes Air Force, Army and Navy pilots, Air Combat Officers (previously Air Force Navigators, Airborne Electronics Officers and Fighter Controllers); and Navy Observers. Members of this employment group will generally be of the O4 – O6 ranks. This placement reflects the rate determined by the DFRT in relation to Flying Allowance (Qualification and Skill) in the 2005 review of Flying Allowance.*

Pay Grade 9:

- *ADF Aircrew with 8-10 years experience post wings. The group includes Air Force, Army and Navy pilots; Air Combat Officers and Navy Observers. Members of this employment group will generally be of the O3 – O4 ranks and reflects Qualification and Skill values determined by the DFRT in relation to the 2005 review of Flying Allowance.*
- *Navy members in a Command appointment of a Major Fleet Unit (MFU) or Submarine Command. Members in these appointments will be at the rank of O5 or O6 in the case of a Major Fleet Unit, and O5 in the case of submarines. This placement reflects the significant and direct contribution to capability provided via the capacity to manage and fight these platforms. It recognises command of seagoing platforms as the pinnacle*

of Navy employment and the significant levels of responsibility and accountability placed on members in these appointments. It is distinguished from the placement of comparable command employments in Pay Grade 8 by sustainability issues impacting Navy and in particular Navy Seaman Officers.

Pay Grade 8:

- *Army Unit Command appointments and other qualified SASR non-command placements; Navy Shore Command appointments, Submariner Engineer Head of Department and Level 2 Engineers, Air Force Air Traffic Control, Command, and Engineer Command appointments. This placement is reflective of the significant contribution to capability provided by these employment groups. These are highly trained and experienced personnel with direct nexus to important capability outcomes. Information in relation to the specific basis for placement of Engineering and Air Traffic Control categories was provided in hearing late 2006.*
- *Qualified (non-command) SASR placement reflects the attainment of what is assessed in Army to be the highest level of individual military qualifications and skills and capacity to operate in a complex, demanding and isolated environment. SASR officers placed at this pay grade will come from the ranks of O3 and above.*
- *In the case of members employed in Army Unit Command appointments and Navy Shore Command appointments, the placement reflects the unique capability contribution provided by members charged with responsibility of managing significant human and capital resources. An Army unit will generally comprise 400 – 800 personnel, require the management and maintenance of capital equipment valuing up to \$1B, and be able to deploy independently or with augmentation by additional Army or ADF assets. A unit is also capable of deployment of its sub-parts, in which case its Commanding Officer (generally of O5 rank) could be responsible for the management assets geographically dispersed in complex environments. Navy Shore Command would normally comprise command of a non-seagoing unit typically responsible for training or base support functions to deployed assets. These appointments involve the management of complex relationships with multiple defence and contractor agencies. They involve management of comparable numbers of personnel and/or equipment. The Navy Shore Commander will generally be of the O5 or O6 rank.*

Pay Grade 7:

- *Navy Minor War Vessel Command, Executive Officer Major Fleet Unit, Submariner Executive Officer or Watch Leader, Commanding Officer Clearance Diving Team, Director of Meteorology, Supply Officer of a Major Fleet Unit, Engineer Head of Department or Engineer Submarine Charge Qualification, Army GSOs with sub-unit command experience and graduation from Staff College, Army Engineers with specialist technical qualifications, Air Force Engineers at the rank of Wing Commander and Group Captain, Air Traffic Controllers with Dual Rating, Logistics Officers in Command appointments, ADF Aircrew with 6-8 years experience.*
- *Placement reflects a combination of qualification, skill, experience and capability/sustainability factors at generally comparable levels. These are niche ADF skill sets with direct nexus to the achievement of ADF military response options. Members placed in Pay Grade 7 will generally be at the senior O4 through O5 ranks.*

Placement in PG7 in some instances reflects the impact of sustainability issues – these are in the Air Traffic Control, Engineers, Logistics and Seaman Officers’ streams.

- *Some command appointments have been identified for placement at this point. These are Command of a Minor War Vessel (with specialisation), or equivalent; CO of a Clearance Diving Team; CO of an Army sub-unit command (by a graduate of the Grade 1 Staff Course); and CO of a RAAF Unit by a Senior LOG Officer. These reflect an assessment indicating a lower level of complexity than those identified for placement at PG8 and PG9 (as well as the absence of any overriding sustainability issues).*

Pay Grade 6:

- *Navy Engineers with Charge Qualification, Submarine Qualified Engineers, Seaman Officer with Advanced Qualification, Force Warfare Officers, Submariner Seaman Officers, Advanced Meteorologists, H1 Hydrographers and non-warfare officers in OIC type positions, Army GSOs with sub-unit command or graduated from Staff College, SASR trainees and qualified Commandos, Air Force Senior Logistics Officers, Engineers at the rank of Squadron Leader and Nursing Officer (Practitioner) Command.*
- *Placement of Seaman Officers at Pay grade 6 reflects the culmination of deep specialist qualification, skill, experience and contribution to capability factors. It also reflects the impact of sustainability issues and the requirement for Navy to pull its workforce through specific warfighting courses. Pay Grade 6 also reflects the top end of placement for non-warfare officers in Navy (unless they are later selected for Shore Command positions). In the case of Army, sub-unit commands are acknowledged as providing significant differential value which arises from the management of a deployable warfighting asset at a level lower than the unit level. It will necessarily involve less personnel and generally involve management of capital equipment of a lesser value than those at the unit level. Pay Grade 6 will generally be occupied by members at the senior O4 or junior O5 ranks.*

Pay Grade 5:

- *ADF Aircrew 4-6 years post wings employment, Navy Engineering Primary Qualification, Seaman Officer Principal Warfare Officer, Commanding Officers of Minor Warfare Vessels (non specialised), Mine-warfare Clearance Diving Officers, Maritime Geospatial Officer – Meteorology, Maritime Geospatial Officer – Hydrographer, Supply Officer with Charge Qualification, Specialised Nursing and Psychology Officers, Air Force Air Combat Officer in Command, Air Traffic Controller with Dual Rating, Command in Combat System Enabler Categories, Nurses at practitioner level, Army GSO on completion of Grade 2 Staff course, Army Engineers completed intermediate course. In the case of Air Force and Navy, placement at Pay Grade 5 reflects a significant level of experience and expertise within a specialisation or the first step of a secondary specialisation. In the case of the Army GSO it reflects an ability to apply warfighting skills in non specialised staff positions at a Brigade, Divisional or Land Command Headquarters. These groups are generally populated by members at the senior O3 through O4 ranks.*

Pay Grade 4:

- *Attainment of the SMN [Seaman] Officer Primary Qualification, intermediate qualifications and appointments in Navy non warfare categories; Air Force Air Combat Officer, Operations Officer and Air Battle Director; Senior Analyst Intelligence Officer, Dual Qualification or senior appointments within the Combat System Enabler specialisations; Army GSOs on completion of the advanced or intermediate course within the GSO progression, Army Commando trainees and Army professional streams on acquisition of a professional development qualification. ADF Aircrew 2-4 years post wings.*
- *The Navy placement reflects the acquisition of a skill set required to operate in the maritime environment, and significantly the acquisition of the warfighting skill set for Seaman Officers (important because the skill set can only be attained within the ADF). In the case of Air Force the group is characterised by the acquisition of senior specialist skills in support and battle space management functions. Placement of Army members reflects the acquisition of senior specialisation skills and the capacity to be employed as a specialist 2IC, Operations Officer or Instructor at a specialisation school. Members of these groups will range from senior 02 through to 04 ranks.*

Pay Grade 3:

- *ADF Aircrew 0-2 years post wings, entry level engineers, Navy Primary Qualification in Supply and other non warfare specialisations, Air Force Air Combat Officer – Weapons Director or regional Surveillance Director, Air Traffic Controller Single Level Rating, Dual Qualification Intelligence Officers, and intermediate levels of qualification for Combat System Enabler specialisations, Army GSO on completion of Basic Course and Grade 3 Staff Course. This group is characterised by initial qualification and specialisations skills. Members in these groups will generally be in the 02 – 03 ranks. ADF Engineers enter at Pay Grade 3 on the basis of the level of qualification held on entry and sustainability issues.*

Pay Grade 2:

- *In recognition of the historical background of the GOPS structure Pay Grade 2 reflects the old Officers' Common Scale, and is generally the entry point to which all officers are commissioned.*
- *It will generally be populated by all officers on graduation from RMC, ADFA, OTS or commissioning through other schemes. Members in Pay Grade 2 in this capacity will generally be at the 01 – 02 ranks. PG2 will also accommodate employment groups in Navy where no additional differential value has presently been identified. These specialisations are Warrant Officer Entry (WO(E)) on prescribed duties; Instructor Training (IT), Public Relations (PRL) and Administration (ADMIN) groups.*

Pay Grade 1:

- *In the event that the GOPS placement exercise is approved in its present form, PG1 will be utilised. For example, for officers of the Reserve who have yet to achieve full training competency. It also provides potential options in future considerations (such as a review of the Training Rates, for example)".*

Common Features of the Service Models

The ADF submitted that the common features of the Service models were:

“Entry Point. Entry for all officers except Engineers presently occurs at Pay Grade 2. An assessment of value and subsequent placement is informed by traditional Principle 6 type work value considerations with a new emphasis on relative value attributable to contribution to maritime capability, land capability and air capability. By way of illustration, those groups within the Air Force proposal which feature on the right hand side of the placement proposal have the most direct nexus with the means of projecting air power – Aircrew. In Navy the groups that enjoy far right hand placement also contribute in significant ways to fighting or sustaining a sea going platform (e.g. personnel with Seaman specialisation, Charge Qualification, experience as HOD, Shore Command or XO). In Army, as the deployment model is the Battle Group, emphasis is placed on Warfighting Skills and contribution within the Battle Group; with particular emphasis on sub-unit and unit command as well as contributions at the strategic level.

Movement to the right generally coincides with movement through employment that contributes at the tactical, operational and finally strategic levels.

Command. All Services regard command as an appointment with significant additional work value and as constituting a proper basis for increased pay placement.

- *Command (at the unit level) features at the far right hand side of the Service taxonomies for Army and Navy. Unit level command in Army sits at Pay Grade 8. Navy Major Fleet Unit Command sits at Pay Grade 9. This is highest pay grade placement of ADF employment groups with the exception of Aircrew.*
- *The position for Air Force is slightly different. Up to (and including) PG7, Air Force Command appointments are acknowledged by one relative pay grade placement to the right, which differs from the absolute pay grade placement for command inherent in Navy and Army taxonomies. The end result is not dissimilar for many employment groups, as illustrated in Figure 5.5 (page 69) of Volume 1. The treatment of Air Force Command is different for the following reasons:*
 - *A significant number of Air Force Commands are held by officers who are in the Aircrew employment group, who are already placed at the highest levels in the structure.*
 - *There is no sustainability factor inherent in Air Force Command placement, as the dynamics of the workforce do not currently need it. This situation can be reviewed if workforce dynamics change.*
 - *The workforce is presently in transition.*
 - *Command (at the sub-unit level) features at pay grades 5 through 7 for Navy and Army”.*

The Commonwealth submitted that it had been involved with the ADF from an early stage in the development of the material presented to the Tribunal. It was said that this was an agreed case, subject to the points of departure identified in opening submissions.

The Returned and Services League of Australia (RSL) and Regular Defence Forces Welfare Association (RDFWA) supported the placements proposed by the ADF as supported by the Commonwealth.

The Tribunal met with a wide range of senior ADF officers to discuss details of the proposed placements and their rationale and to explore any cross service issues. Officers consulted were: the Chief of the Defence Force (CDF); Vice Chief of Defence Force (VCDF); Chiefs of Navy, Army and Air Force; Chief of Capability Development Executive; the Fleet Commander, the Land Commander, the Air Commander and the Special Operations Commander.

The Tribunal also met with groups of officers to hear their views on the placements proposed. The discussions were held on 28 May 2007 with Navy Officers at HMAS WATSON, on 31 May 2007 at RAAF Williamtown with Air Force Officers and 7 June 2007 at Robertson Barracks with Army Officers.

On 15 May 2007 the Tribunal visited the Australian Defence College at Weston Creek for presentations on such matters as officer career management and development and on training.

In deciding the case, the Tribunal noted that the ADF's proposals were developed without considering their relationship with the star rank salary structure, creating problems when an officer was to be promoted from 06 to 07 rank. The Tribunal raised this at the outset, to which the ADF responded by proposing to truncate the 07 salary range by cutting off the bottom 40%. The Tribunal did not accept what it described as "*a bandaid which is unacceptable*". Rather, the Tribunal encouraged the ADF "*to review its approach to remuneration for its most senior ranks, taking the opportunity to look beyond base pay and concentrate on the most effective way to remunerate its leadership*".

Similarly, the Tribunal had difficulty with Army's proposal that completion of training courses were to provide the trigger points for advancing in pay grade. Accordingly, the Tribunal rejected the first proposal to place Army engineers and observed, "*In our view, sound principle requires that payment be for skills applied, rather than skills acquired*". The Tribunal accepted a revised Army proposal, submitted on the last day of hearing, noting that it relied on sound transition points, supported by Army's existing management systems.

A key issue for the Tribunal in the consultations was whether the outcome of the placement exercise was manageable and sustainable. The Tribunal was particularly concerned with cross Service differences and any impact on joint operations – for example, differences in how command was to be recognized – but accepted the Chief of the Defence Force's and Service Chiefs' assurances that the different approaches of the Services, being appropriate to their cultures, were manageable across the ADF without weakening its joint nature.

On placement within the salary structure, the Tribunal said:

"The ADF's placement principles and Service proposals have evolved over the life of the Remuneration Reform Project. While the structure allows for flexibility and differentiation across the officer population, the placement proposals involve only limited differentiation within rank, at least up to 04 level. Vertical progression with seniority in the Officers' Common Scale is largely replaced by diagonal progression up and across the pay grade matrix. So, for example, all Army General Service Officers (not including engineers) progress from Pay Grade 2 at 02 rank to Pay Grade 5 at 04 rank; differentiation comes only at that point with various command appointments.

While we were not concerned with the extra recognition and reward for command roles – indeed we see it as warranted and timely – we did press the leadership team on the appropriate level of differentiation within and between categories. We did so because placements now, constrain future options for flexibility. The top end of the structure is limited by intrusion into the star rank scales, so that its practical limit is the available 10 pay grades. Using all the available bandwidth now makes it difficult to introduce greater differentiation as the ADF gains experience with this new structure.

...

While these may be seen as arguments for adopting a cautious approach, we were satisfied that the ADF leadership had carefully considered relativities, understanding that pay grade 10 is the foreseeable limit of the 01 to 06 structure. We accept the CDF's view that there is no realistic prospect of the ADF arguing for placement of a category higher than Sea Command or SAS Officers. Consequently, introduction of further differentiation in the future is to be accommodated within those bounds. We have accepted the ADF and Commonwealth proposals on that basis”.

The Tribunal decided:

- to approve the placements of 01 - 06 officers in the Graded Officer Pay Structure;
- to consider separately placement of Reserve Officers;
- to list for hearing further rationalisation of the Other Ranks Salary Structure; and
- to list for hearing remuneration for 07 and 08 officers.

The decision finally observed:

“The Tribunal has had cause to comment previously on the Department of Defence's inability to implement remuneration changes in a timely fashion. We again note that it will be several months before officers are paid the salaries resulting from these placements. We do not understand how delays in implementation that would be unacceptable in other organizations are acceptable in the ADF”.

A determination was issued on 23 August 2007, giving effect to the placements on and from 9 August 2007.

B. Graded Other Ranks Pay Structure (GORPS)

The Tribunal's Reasons for Decision on the Remuneration Reform Project (RRP) Phase 3, on 27 February 2006, stated *“work must now progress, as a matter of urgency, to complete a pay structure for the Other Ranks which also includes the Qualification and Skill (Q & S) elements of allowances”.*

Accordingly, by joint submission on 5 December 2006, the ADF and the Commonwealth proposed a structure of sixteen pay groups for other ranks, incorporating Q & S elements of Special Action Forces, Special Operations, Flying and Submarine Service Allowances.

In the proposal, current salary rates were retained at Pay Groups 1, 2 and 3, but the differential between Pay Groups from 3 to 16 set at a constant \$2084 at all rank levels, resulting in increases for members then in Pay Groups 4 to 7. A member who received one of the specified Q & S allowances would be placed in the corresponding Pay Group in the new structure.

The Tribunal approved the structure as sought by the principal parties, noting that the structure not only incorporated Q & S allowances but also reduced compression at higher ranks.

The proposed sixteen pay group structure was intended only as a temporary structure. The parties commenced submissions and evidence from 27 May 2008, proposing a ten pay group structure for other ranks. The ADF proposed placement of individual employment categories within the proposed ten pay group structure on a 'Job Family Group' basis, rather than an individual/category specific placement process. It also proposed consequential amendments to the Warrant Officer Class 1 (E) Pay Grade Structure.

A review of Trainee pay arrangements is being undertaken at the same time.

The case is expected to conclude in November 2008 and accordingly will be included in the Tribunal's 2008 - 2009 Report.

C. Navy Capability Allowance (NCA)

The ADF sought the introduction of a Navy Capability Allowance (NCA) to "*address the acute and pressing nature of Navy Workforce issues*". This was the first application to the Tribunal for determination of a Capability Allowance.

On 5 December 2006, as part of the ADF Recruiting and Retention Strategy, the Minister for Defence announced that the ADF would ask the Defence Force Remuneration Tribunal to fundamentally review Sea Going and Submarine Service Allowances to better recognise "*the increasing dissatisfaction with sea service and compensate for the demands associated with serving at sea*". In the Ministerial announcement on 5 December 2006, the Government proposed that the review should examine appropriate levels of compensation, particularly with regard to the liability of Navy personnel to serve at sea, at all times, not just when the member is at sea.

In the context of discussions on the Graded Officer Pay Structure in 2007, the Chief of Navy and the Fleet Commander advised the Tribunal of unprecedented workforce manning issues impacting the delivery of Navy capability. On 27 June 2007 the Tribunal wrote to the Chief of Navy suggesting an approach "*which may be of assistance in accommodating a timely review*".

As a result the Tribunal visited HMAS STIRLING in Western Australia in July 2007 and was briefed by the Director General Navy Personnel and Training (DGNPT) in August, September and October 2007.

Having considered the remuneration options to address the Navy workforce issue, the ADF decided that it would seek the introduction of a Capability Allowance rather than pursue the review of the Sea Going and Submarine Service Allowances at that time.

The ADF proposed an NCA to target key areas of workforce priority within the other ranks general and submarine trained force (Able Seaman through Chief Petty Officer ranks) as follows:

Category 1	Members who are not presently committed to any further period of service.
Category 2	Members who will complete an Initial Minimum Period of Service during the life of the allowance.
Category 3	Members who are committed to a period of service associated with an existing s.58B bonus scheme.

The structure and quanta of the allowance proposed by the ADF are set out in the table below.

Group	Quanta and Structure	Qualifying Comments
General Service Sailors	\$24,000	Eligibility will be confined to sailors who:
Submarine Sailors	\$60,000	<ul style="list-style-type: none"> ▪ Hold the rank of AB-CPO (inclusive). ▪ Have completed an Initial Minimum Period of Service. ▪ Are 'Individually Ready' in accordance with Navy policy for readiness. ▪ Accept an undertaking for further service of 18 months. ▪ Apply for the allowance in the approved form.

The ADF also proposed guidelines to be applied to applications for a Capability Allowance:

- “ - *The proposal must include identification and justification of a targeted group of intended recipients.*
- *The proposal must clearly identify and establish a relationship between;*
- i. the vulnerable or desired capability;*
 - ii. the group or groups within the workforce who deliver that capability; and*
 - iii. the remunerative solution sought.*
- *The proposal must establish that a remunerative solution is required and appropriate, and that the capability issue can not be dealt with via non-remunerative measures alone.*
- *The proposal must explain the nature of any relationship between the remunerative solution sought, and the permanent remuneration regime available to members of the targeted group, particularly in circumstances in which permanent remunerative arrangements are influenced by long-term sustainability issues.*
- *The proposal must be supported by qualitative and quantitative evidence in relation to specific points of workforce vulnerability.*
- *A rationale for the form of the allowance sought is to be set out.*

- *The period of duration and the rationale for the period must be enunciated.*
- *The proposal is to include a plan for transition at an appropriate time during the life of the allowance.*
- *The proposal is to include Key Performance Indicators against which the impact of the allowance can be reported and assessed”.*

The ADF provided additional submissions on issues raised by the Tribunal in hearings. These submissions addressed:

- further description and identification of members eligible for the NCA;
- the provision of a draft determination; and
- the identification of metrics, or measurements to be applied to any Key Performance Indicators (KPI's) to assess the effectiveness of the NCA.

Commodore Letts, Director General of Navy Personnel and Training, gave written and oral evidence.

The Commonwealth supported the introduction of the Navy Capability Allowance as proposed by the ADF. The Commonwealth noted *“the undertaking of the ADF to conduct a comprehensive review of Sea Going and Submarine Service Allowances by end 2010”*.

The RSL and RDFWA also supported the ADF proposal and highlighted the importance of the progression of the ADF's proposed *“management initiatives and interventions”*.

The decision of the Tribunal observed that *“The application of remunerative measures to these workforce issues is not new”* and reviewed comments made in previous decisions about Submarine Service and Sea Going Allowances.

The Tribunal went on to say:

“In this case, Commodore Letts gave evidence that the NCA was to be a short term measure while other strategic interventions addressed the fundamental issues with sea service to which he referred. He did not enlarge upon those initiatives, beyond the SeaChange, Nautilus and Klaxon programs which have been running for some time. Clearly, those other initiatives will need to be significant, since on Commodore Letts' evidence the state of the workforce has continued to deteriorate.

Certainly, the sums of money involved in the NCA are significant. For example, for a Leading Seaman Boatswains Mate Submariner, \$60,000 equates to 67% of before tax earnings of \$57,177 salary, \$10,672 Service Allowance and \$21,648 Submarine Service Allowance. For the same sailor in the surface fleet, the NCA of \$24,000 represents 33% of before tax earnings.

Were it not for the significant sums involved, we doubt the effectiveness of the proposed allowance. But the very size of the figures puts further pressure on Navy's other strategic interventions. In the absence of major change within the life of the allowance, we are concerned for Navy's position when the NCA finishes. While a further review of Seagoing and Submarine Service Allowances is contemplated, we simply observe that money has not so far been the solution and do not see that changing.

Consequently, we regard as critical the Key Performance Indicators to measure the effect of the NCA and, particularly, report backs on other strategic initiatives. We

accept the ADF's proposed timetable for report back on KPIs and on the progress of other deliverables. We will program accordingly.

Considering the agreed position between the ADF and the Commonwealth, we decided to approve the introduction of the Navy Capability Allowance as proposed. It will be apparent that we did so with misgivings.

The Tribunal has not seen this as the occasion to consider further principles that might apply in future. We do not see that there are matters of general application to be taken from Navy's position in this case".

The date of effect was on and from 9 April 2008.

D. Determinations on Flying and Flight Duties Allowance (FFDA) and Submarine Service Allowance (SSA)

The Qualification and Skill elements of these allowances had previously been incorporated into the salary structures for officers and other ranks. Accordingly, the Tribunal issued new determinations for this group of allowances. They are now paid for disability only. A similar exercise had already been completed for relevant special forces or specialist operations allowances.

We observe that references in other legislative instruments to Qualification and Skill elements of these allowances have consequently become redundant.

E. Workplace Remuneration Arrangement (WRA) and Star Ranks Remuneration Arrangement (SRRRA) 2006 – 2009

The Defence Act provides, in relation to salaries and allowances, that the Tribunal may give effect to any agreement reached between the Minister for Education Employment and Workplace Relations, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the ADF. On 27 September 2006 the ADF and Commonwealth made submissions on such an agreement covering the period from 4 November 2006 until 3 November 2009. It contemplated a salary increase of 4.2% from 16 November 2006 and three further increases of 2.8% from each of 9 August 2007, 1 May 2008 and 5 February 2009, for ADF members at 08 rank and below. The Tribunal determined new salary rates for ADF members with effect from 1 May 2008.

F. Royal Australian Air Force (RAAF) Supply and Movements Categories

The ADF sought the introduction of a new structure and pay group placement for the RAAF Supply and Movements categories. The ADF submitted that the proposal is aligned with like trades in the Navy and Army.

On 19 and 20 February 2008 the Tribunal visited RAAF Amberley to inspect the work of Air Force members employed in the current supply trades.

The ADF and the Commonwealth provided a joint submission on 13 March 2008, which proposed:

“ – The Movements category having a three graded structure:

- a. Movements Grade One (MOV1) – achieved upon completion of Initial Employment Training (IET). Pay Group placement at Pay Group 2;*

- b. *Movements Grade Two (MOV2) – achieved upon completion of 12 months productive service post-IET, completion of the Non-Technical Duty Crew (NTDC) course, and completion of the relevant sections of competency logs. Pay Group placement at Pay Group 3; and*
 - c. *Movements Grade Three (MOV3) – achieved upon completion of the Air Movements Advanced course and posting to a SNCO position. Pay Group placement at Pay Group 4.*
- *The Supply category having a three graded structure:*
- a. *Supply Grade One (SUP1) – achieved upon completion of Initial Employment Training (IET). Pay Group placement at Pay Group 2;*
 - b. *Supply Grade Two (SUP2) – achieved upon completion of 12 months productive service post-IET, and completion of the relevant sections of competency logs. Pay Group placement at Pay Group 3; and*
 - c. *Supply Grade Three (SUP3) – achieved upon completion of the Supply Supervisors course and posting to a SNCO position. Pay Group placement at Pay Group 4.*

Having considered the submissions and evidence, the Tribunal approved the structure and pay group placements as proposed by the ADF and the Commonwealth, including transitional arrangements. The Tribunal accepted the submission that the proposal supports increased trade knowledge and experience that facilitates introduction of new capabilities and provides a sustainable career progression model”.

The new structure applied on and from 1 July 2008.

G. ADF Star Rank Remuneration

In the Tribunal’s Reasons for Decision on the Remuneration Reform Project, issued on 27 February 2006, the Tribunal approved a new salary structure to apply to officers in the ranks 01 – 06. However, the Tribunal did not accept the ADF’s submission on setting salaries for 07 and 08 rank officers. The Tribunal noted that separate remuneration arrangements applied for star rank officers and expressed support for more flexible arrangements to apply to these officers.

Subsequently, the ADF and the Commonwealth made a joint submission to the Tribunal on 12 April 2006, which was discussed in conference on 20 April 2006. They proposed a flexible remuneration model in which the Tribunal set a salary range for each rank and the CDF recommended to the Tribunal the salary levels for individual star rank officers.

On 21 April 2006 the Tribunal approved the salary ranges as proposed by the parties.

In the Graded Officer Pay Structure case in 2007, the Tribunal rejected a proposal to truncate the salary scale for 07 officers and encouraged a more comprehensive approach (see item A above). Consequently, in April 2008 the ADF submitted:

- Structural adjustment was needed for 07 and 08 salary rates to take account of intrusion resulting from the placement of 06 officers in the Graded Officer Pay Structure, to restore the bandwidths to a viable level, and to provide for reasonable movement on promotion.

- Severance of the formal linkage between the SRRA and WRA, which provides identical salary outcomes, at the end of the current arrangement in November 2009 will assist overall management of the star rank group and enhance its accountability.
- Adjustment of the star rank pay bands by annual submission to the DFRT will allow more frequent review of star rank remuneration and provide the capacity to adjust quickly to changed circumstances.
- Adoption of a Total Cash Value concept for star rank officers will enhance transparency of remuneration and will allow ready remuneration comparison in terms of a 'total package'.
- Movement of specialist 07 and 08 officers from the Medical, Dental and Legal Specialist Career Structures (SOCS) to the general star rank banded structure will simplify the current pay structures and demonstrate more visibly that Star Rank Specialist Officers are part of the ADF Senior Leadership Group.
- Star rank Reservists should receive a pro-rata rate of non-superannuable salary in lieu of a private plated car, according to the number of days worked, so that they receive equitable treatment compared to their permanent counterparts.

“The ADF proposed that:

- a. *The 07 salary range be set at \$149,340 to \$179,208 pa to take account of intrusion issues.*
- b. *The 08 salary range be set at \$183,986 to \$202,385 pa to recognise the nature and complexity of jobs performed by 08 officers and provide an appropriate on-promotion rate from 07.*
- c. *Reserve Star Rank Officers be paid a non-superannuable allowance in lieu of a vehicle, payable in the daily rate on a pro-rata basis.*
- d. *Total Cash Value (TCV) be adopted for star rank remuneration, comprising:*
 - o *superannuable Salary;*
 - o *non-superannuable salary; and*
 - o *the benefit of a private plated vehicle.*
- e. *Specialist 07 and 08 officers currently paid under the Medical, Dental and Legal SOCS be moved to the general star rank structure; but Chaplains Division 5 remain in their extant Specialist Officers Career Structure (SOCS).*
- f. *The formal linkage between the SRRA and WRA in terms of identical salary outcomes be severed, with effect from the end of the current Arrangement in November 2009.*
- g. *From November 2009 the star rank ranges be adjusted by annual submission to the DFRT to take account of relevant factors that may include productivity and/or efficiency gains, comparative salary movements, attraction and retention issues and structural issues.*

The ADF submitted that it had considered the feasibility of using a Total Remuneration Package but said that there were “considerable difficulties in accurately determining the employee’s superannuation contribution”.

Accordingly, the ADF proposed instead to adopt Total Cash Value that includes:

- a. *“The Superannuable Salary Component, which is the superannuable salary payable to the officer. It will be defined by their initial position on the superannuable salary band, PLUS any superannuable loading that the Service Chief/CDF may apply having regard to the officer’s particular circumstances/value. Since they are the normal incidences of a position they would not normally be reduced unless compelling circumstances applied.*
- b. *Any Non-superannuable Salary Component. This would be a non-superannuable salary loading that may be applied, having regard to the officer’s particular circumstances and value. It differs from the above component insofar as it would normally be applied for shorter-term reasons, such as an officer being placed in a difficult or onerous appointment; or to link money to specified performance outcomes; or perhaps to recognise issues that are particular to the circumstances of the officer.*
- c. *The Value of the Private Plated Vehicle. This is the deemed value of the private plated vehicle benefit, as per the figures released by the Department from time to time.” (Exhibit ADF1, pages 53-54).*

The motor vehicle benefit was submitted currently to be \$22,550 for 07 officers and \$24,088 at 08 and, at the officer’s discretion, could be ‘cashed out’ at those values. Consequently, the ADF proposed annual total cash value ranges of:

<i>07</i>	<i>\$171,890 – 201,758</i>
<i>08</i>	<i>\$208,074 – 226,473”</i>

The Commonwealth supported the ADF proposal.

The ADF and Commonwealth agreed that the Tribunal had jurisdiction to determine salary payable to officers in terms of total cash value.

Having considered the submissions and evidence, the Tribunal decided to approve the changes proposed by the ADF and supported by the Commonwealth.

In approving the proposal, the Tribunal commented as follows:

“In our decision of 14 November 2006, which determined the current star rank pay ranges, we commented favourably on several aspects now proposed by the ADF.

In reaching this decision [to determine the proposed salary ranges], we took account of the fact that there was already a separate Star Ranks Remuneration Arrangement (SRRA), that the Tribunal is able to, and does, make individual determinations, that differentiation already applied within the most senior ranks by operation of a separate s.58B determination, and that there is a relatively small number of star rank officers, all visible to the Service Chiefs and CDF and whose postings and further careers are managed individually. Individual performance, future leadership succession and the criticality of the job and the person are just some of the factors considered in managing each officer’s career at this level.

The Tribunal saw no reason why differential salary determination should not also be available as a tool in recognising and managing those in the senior leadership group.

Changing the salary structure for officers in the ADF has been a major undertaking over many years. The approach we have adopted is able to accommodate a wide range of individual considerations and change, quickly and with minimum overhead.

It also opens a path for further reform of how salaries for star rank officers are managed. The salary ranges determined above largely encompass the salaries for star rank officers in specialist pay scales. We think it would be sensible to manage the salaries for 07 and 08 officers as a whole, within the one structure, rather than to maintain several different salary schedules covering star rank officers. Further, adopting this approach means that a separate SRRA, or including star rank salaries in the Workplace Remuneration Arrangement, is potentially superfluous. We see merit in managing star rank salaries by regular review of the set salary ranges.

We are satisfied that the CDF is best placed to make reasoned recommendations to the Tribunal on placement of officers within the salary ranges. The bottom of the range for each rank will operate as the “on promotion” rate, in the absence of a recommendation by the CDF for individual determination of another rate.

We do not depart from that view. Further, these comments are to be read within the context of our Reasons for Decision on the Remuneration Reform Project in February 2006.

...

Accordingly, we think that determining salary for star rank officers in terms of total cash value is a sensible incremental step on the path already endorsed by the Tribunal.

The Tribunal’s determination will set total cash value ranges as follows:

07 \$171,890 – 201,758

08 \$208,074 – 226,473

This in our view provides the proper comparison to the top of the 06 range, at \$152,380. It does not, however, correspond to the way 09 salaries are expressed, either in our determinations or in those of the Remuneration Tribunal. We note that the ADF’s written submissions were in error in both sets of comparisons drawn. Nevertheless, we are satisfied on the ADF’s other submissions that the total cash value ranges above are appropriate.

In determining the ranges sought by the parties, we considered whether an adjustment was necessary for a change of tenure for senior officers. The Tribunal accepts Major General Slater’s explanation that limited tenure appointment (either for a set task or a set period) at these ranks has long been available under Defence Personnel Regulations, in addition to permanent appointment, and that the ADF intends to continue with all three types of appointment. We accept that the salary offer attached to a limited tenure promotion will sensibly take the factor of tenure into account. Since this is not a new consideration, we are satisfied that the possibility of limited tenure appointments does not warrant adjustment to the ranges proposed by the parties”.

The Tribunal went on to note that this is a system allowing discretion – discretion for the CDF in recommending the level of total cash value within the determined range; and discretion for the officer in how part of the total cash value is to be provided.

The Tribunal observed:

“The Tribunal considers that the integrity of the system is dependent on the capacity of the CDF to exercise discretion in placing individual officers of all three Services within the range available. By virtue of his position in the ADF command chain it is the CDF rather than the Service Chiefs who is best equipped to provide the necessary balance and consistency across all Services. The Tribunal places great weight on the CDF’s recommendations and we recommend that further development of sound star rank salary management processes, as referred to in evidence to the Tribunal, include measures to ensure that the CDF is supported by staff members with real expertise in salary administration”.

Lastly, recognising that the discretion available in star rank remuneration is greater than in the salary system for other officers and that operating such a system is relatively new to the ADF, the Tribunal endorsed the proposal to review the determined ranges annually. The Tribunal commented that this provides a sensible opportunity for all parties to review the operation of the system, as the ADF establishes expertise in this type of salary administration and as senior officers gain in their experience of it.

The new structure applied on and from 1 July 2008.

H. Warrant Officer Class 1 (E) Pay Group Placement

During proceedings in the Remuneration Reform Project case (Matter No 2 of 2003), the ADF proposed that Service Warrant Officers and WO1(E) be remunerated within the General Officer Pay Structure, on the basis that the nature of work for this group had changed sufficiently to warrant the provision of differential pay treatment.

In a statement on 9 December 2005 the Tribunal directed that *“the General Officer Pay Structure should not apply to Warrant Officer Class 1 (Equivalent). A separate scale for Warrant Officers, based on the same principles as the General Officer Pay Structure should be provided”*. It was also stated that *“We agree that differential pay ought to be available to Warrant Officers, as for officers. But we see no utility in including Warrant Officers in the General Officers structure, when the same end can be achieved with a separate Warrant Officer scale and Warrant Officers given the recognition they deserve as the most senior Other Ranks leaders in the ADF”*. In February 2006 the resulting salary structure was approved.

In a parallel process to the placement of officers in the Graded Officer Pay Structure, on 25 May 2007 the Tribunal met with a wide range of ADF Warrant Officer Class 1 (Equivalents) at the Royal Military College of Australia, Duntroon to discuss placement of all WO1(E) and Service Warrant Officers in the differentiated structure.

The discussions informed the Tribunal on work conducted by WO1(E) and the views of these members on relative placement within the salary structure. Subsequently, at a meeting convened at HMAS WATSON on 28 May 2007, the Tribunal directed that the parties prepare a written submission for consideration. Accordingly, a joint submission of the ADF and Commonwealth was provided to the Tribunal on 4 July 2007.

The ADF and the Commonwealth proposed the following arrangements:

- Increased differentials from Pay Grade 2 of the WO1(E) scale to provide consistent differentials of \$4,100.

- Recognition of the following employment groups at the WO1(E) rank:
 - **Tier A** - Direct application of trade skills at:
 - The unit level in the case of Army;
 - The squadron level in the case of Air Force; and
 - The department level in the case of Navy.
 - **Tier B** - Application of managerial skills (applied with or without reference to trade knowledge) at or higher than:
 - The formation level in the case of Army;
 - The wing level in the case of Air Force; and
 - The unit level in the case of Navy.
 - **Tier C** - High level managerial and representation duties, applied generally at a function or environmental command level.
 - **Tier D** - Service Warrant Officers.
- Accommodation of WO1(E) within Tier A at a Pay Grade informed by the trade to which the WO1(E) belongs; and
- Separate arrangements for the Service Warrant Officers.

Specific Placements sought were:

- Tier B appointments at Pay Grades 3 to 5.
- Tier C appointments at Pay Grade 6.
- Accommodation of the Army Regimental Sergeant Major (RSM) at:
 - Tier A of Pay Grade 4;
 - Tier B at Pay Grade 5; and
 - Tier C at Pay Grade 6;
- Air Force Warrant Officer Discipline (WOD) Tier A at Pay Grade 4
- Air Force Warrant Officer Engineer appointments Tier A at Pay Grade 4.

It was submitted that the proposed placements recognise that WO1(E) on promotion are predominantly employed in jobs that rely on direct application of trade related skills. The proposed translation from the 16 Pay Group Other Ranks structure to the 8 graded WO1(E) structure was:

Placement within OR Structure	Placement within WO1(E) Structure
Pay Group 2,3 and 4	Pay Grade 2
Pay Group 5 and 6	Pay Grade 3
Pay Group 7 and 8	Pay Grade 4
Pay Group 9 and 10	Pay Grade 5
Pay Group 11 and 12	Pay Grade 6
Pay Group 13 and 14	Pay Grade 7
Pay Group 15 and 16	Pay Grade 8

Differential pay for Service Warrant Officers had been a feature of the ADF pay structure since the introduction of these positions. The parties proposed that these members be remunerated by Individual Determination within a salary band - Pay Grade 6 to Pay Grade 8. This would enable the Service Warrant Officers to be remunerated having regard to the level of remuneration of their previous employment and the potential of the individual to perform within the job. Service Chiefs would make recommendations to the Tribunal on the appropriate level of salary.

The Tribunal approved the proposed eight grade salary structure for WO1(E) which included placement of those members receiving the Qualification and Skill (Q & S) elements of Special Action Forces Allowance, Specialist Operations Allowance, Submarine Service Allowance and Flying Allowance.

In coming to a decision, the Tribunal took into account: the strong support of those WO1(E) with whom the Tribunal met; the fact that WO1(E) at Tier A were directly applying their trade skills; that there was a recognisable hierarchy within the employment of WO1(E) and the new structure addressed the inherent relativity difficulties between WO2(E) and WO1(E), a matter that the Tribunal had commented on in the past.

The new structure applied on and from 9 August 2007.

I. Repeal of s.58H Determination 6 of 1992 and Issue of Determination 15 of 2008

On 4 June 1992, the Tribunal issued the consolidated Salaries Determination 6 of 1992 which detailed the salaries paid to ADF members within the Tribunal's jurisdiction. Since that time as a result of salary, allowances and structure and category reviews many amendments have been made to 6 of 1992 as discrete determinations.

In 2007 the Tribunal decided that there should be a new consolidated determination issued which detailed salaries paid to ADF members. The aim of the exercise was to produce a plain English document that could be easily navigated by ADF members.

On 6 June 2008 the Tribunal issued the new Consolidated s.58H Determination 15 of 2008 – Salaries.

J. Special Forces Disability Allowance (SFDA) and Allowance for Specialist Operations

The ADF sought the amendment of Special Action Forces Allowance (SAFA) and Special Operations Allowance (SOA), forming new allowances titled Special Forces Disability Allowance (SFDA) and Allowance for Specialist Operations. Changes to a number of the rates were also proposed.

The Tribunal inspected the work of members of 4 RAR (Commando) at Holsworthy on 30 October 2007. During the inspection the Tribunal viewed a number of demonstrations and static displays.

The Tribunal was briefed on the work of members of Special Operations Command by the Commander Special Operations and his staff and the Commanding Officer Special Air Service Regiment, at Swanbourne, Western Australia on 30 November 2007.

With the benefit of a detailed written submission on the proposed allowance, supported by comprehensive briefings the Tribunal approved the new allowance and changes to the rates as sought. This structure applies a holistic approach to the work of Special Forces members and the disabilities associated with that work. The Tribunal was satisfied that the new structure provides appropriate relativities for the work at the 6 tiers.

The date of effect for the new allowance and rates applied on and from 13 December 2007.

Clearance divers remain covered by the Allowance for Specialist Operations which came into effect on the same day.

K. Adventurous Training Instructors Allowance (ATIA)

On 11 September 2007 the Tribunal visited the Adventure Training Wing (ATW) of Army Recruit Training Centre, Kapooka to inspect the work of the Adventurous Training Instructors.

The ADF and the Commonwealth provided a joint review of Adventurous Training Instructor Allowance.

Having observed the work of the Adventurous Training Instructors and considered the material submitted and with the benefit of discussions with the parties, the Tribunal decided that the current structure should continue, as sought, with no change to the tier or quanta of the allowance.

The date of effect applied on and from the date of the inspection, 11 September 2007.

The current determination for this allowance continues in force.

L. Placement of Army Reserve Officers

On 6 August 2007 the Tribunal approved the placement of ADF Officers within GOPS, with the exception of Reserve Officers paid at lesser rates to permanent members and Specialist Officers. On 31 October 2007 the Tribunal approved revised placements for Special Forces Officers.

On 4 December 2007 the ADF and the Commonwealth, in a joint submission, sought the placement of 'salary-discounted' Army Reserve Officers (General Service Officers and

Engineers) in GOPS on the same basis as for the placement of Australian Regular Army Officers and with the continued application of the current discount.

The RSL and the RDFWA supported the joint proposal.

Having considered the submission and evidence, the Tribunal decided to approve the placements sought by the parties.

As this was another element of the GOPS, the date of effect applied on and from 9 August 2007, consistent with the placement of the broader population within the GOPS.

6. INSPECTIONS

Inspections are generally made at the request of the parties to review work performed by ADF members.

On 16 July 2007 the Tribunal travelled to HMAS STIRLING, Garden Island, Western Australia to meet with Senior Naval Officers to discuss Submarine Service Allowance and Seagoing Allowance. An inspection was conducted onboard HMAS COLLINS to gain a greater understanding of the work of submariners. This inspection helped to inform the Tribunal of issues relating to the Navy Capability Allowance.

On 30 October 2007, the Tribunal inspected the work of members of 4 RAR (Commando) at Holsworthy. During this inspection the Tribunal viewed a number of demonstrations and static displays. The Tribunal was briefed on the work of members of Special Operations Command by the Commander Special Operations and his staff and the Commanding Officer Special Air Service Regiment at Swanbourne, Western Australia on 29 and 30 November 2007.

On 11 September 2007 the Tribunal visited the Adventure Training Wing (ATW) of Army Recruit Training Centre, Kapooka to inspect the work of the Adventurous Training Instructors. The Tribunal observed several presentations regarding safety procedures in the use of adventurous training equipment and the simulated recovery of unconscious personnel suspended over the side of a cliff face.

On 19 and 20 February 2008, the Tribunal visited RAAF Amberley to review the work of Supply and Movements category personnel and observed several presentations including the loading of a Bushmaster vehicle onto a C-17 Globemaster Transport Aircraft.

7. VISITS

As part of its statutory obligation to inform itself on ADF matters, the Tribunal undertakes visits to ADF units, establishments and ships. These visits generally include open forums with ADF members at all rank levels and, on occasions, with spouses. Usually the meetings are informal and include a short explanation of the role and function of the Tribunal, followed by a discussion period in which ADF personnel and spouses have the opportunity to raise issues or ask questions.

On 16 and 17 October 2007, the Tribunal visited HMAS CERBERUS to gain an understanding of the work and training activities undertaken by staff and students. The opportunity was taken to discuss salary and related issues. It was particularly relevant, given the recent activity on officer placement and revision of the other ranks salary structure.

The number of visits to ADF ships and establishments was limited during the period of this report due to the Tribunal's program of work, reported above.

8. FINANCIAL MATTERS

The Tribunal's financial requirements are met through the Department of Education Employment and Workplace Relations, sub-program 5, Defence Force Remuneration Tribunal. There is no separate form of accounts applicable to the Tribunal.

Budget funds, allocated through the Departmental process, may be expended by the authority of the Tribunal under the headings of: salaries to the authorised staffing level, including holders of public office; and administrative and incidental expenditure.

9. INDUSTRIAL DEMOCRACY

The Tribunal supports participative practices involving staff in decision-making and process improvement through the sharing of information, and clarity of accountability in the workplace.

10. OCCUPATIONAL HEALTH AND SAFETY

The obligations of the Tribunal under the provisions of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* are met by the Department of Education, Employment and Workplace Relations on behalf of the Tribunal.

11. ENERGY MANAGEMENT

The Tribunal occupies space at Level 1, 12 Moore Street, Canberra. In relation to those energy matters which are within the control of the Tribunal, such as lighting, every effort is made to reduce energy consumption consistent with the requirements for every day administration.

12. ADVERTISING AND MARKET RESEARCH

The Tribunal does not have a requirement to advertise or conduct market research.

13. DISCRETIONARY GRANTS

There are no discretionary grants administered by the Tribunal.

14. ACCOMMODATION

In addition to the use of the premises for the operations of the Tribunal, the Hearing and Advocates' rooms continue to be used by Government Departments, including the Department of Defence and the Department of Education, Employment and Workplace Relations, and by the Australian Industrial Relations Commission and other Tribunals. The facilities are made available subject to the Tribunal's own requirements.

15. WEB SITE

The Defence Force Remuneration Tribunal released its web site in November 1999. The web site includes the role and operation of the Tribunal, current membership and contains statements, decisions and determinations made in the matters that have come before it and matters scheduled for hearing. The Tribunal's Report is also available on the site.

Along with the visits to ADF establishments detailed in Part 7 of this Report, the web site provides ADF members and other interested parties with an important opportunity to familiarise themselves with the role, operation and decisions of the Tribunal.

In 2007 the DFRT web site was reviewed and substantially upgraded to incorporate links to the individual Services, ADF Pay and Conditions Manual, Badges of Rank and the web sites for Defence Personnel Executive and the Department of Education Employment and Workplace Relations.

To ensure the DFRT web site is user friendly and more appropriately raises the profile of the work of the DFRT, further revisions were conducted. These upgrades include additions such as recent events and inspections and providing greater access to historic data. Further, images taken during visits and inspections are now posted on the web site, being available for download in both low and high resolution formats.

EXTRACT FROM THE DEFENCE ACT 1903 SECTIONS 58F TO 58Y**Division 2 - The Defence Force Remuneration Tribunal****58F. Interpretation**

In this Division, unless the contrary intention appears:

"Commission" means the Australian Industrial Relations Commission established by section 8 of the *Workplace Relations Act 1996*.

"Defence Force Advocate" means the Defence Force Advocate appointed under section 58S.

"member of the Tribunal" means a member of the Tribunal appointed under section 58G, and includes the President.

"President" means the President of the Tribunal appointed under section 58G.

"presidential member of the Commission" means the President of the Commission or the Vice President, a Senior Deputy President or a Deputy President of the Commission appointed under section 9 of the *Workplace Relations Act 1996*.

"relevant allowances", in relation to a member, means allowances by way of remuneration payable to the member and, without limiting the generality of the foregoing, includes any allowance payable to the member:

- (a) in respect of the service of the member on a ship or aircraft;
- (b) as general compensation for the disadvantages of rendering naval, military or air force service;
- (c) in respect of particular skills or qualifications possessed by the member; or
- (d) as compensation for the hazardous nature of the duties that the member is required to perform or for the conditions under which the member is required to perform his or her duties.

"Remuneration Tribunal" means the Remuneration Tribunal established by subsection 4(1) of the *Remuneration Tribunal Act 1973*.

"salary" includes pay.

"single member" means a member of the Tribunal specified in a direction made under subsection 58KA(1).

"Tribunal" means the Defence Force Remuneration Tribunal established by section 58G.

58G. Establishment of Defence Force Remuneration Tribunal

- (1) There is established by this section a Defence Force Remuneration Tribunal.
- (2) The Tribunal shall consist of:
 - (a) a President;
 - (b) a person who is experienced in industrial relations matters; and
 - (c) a person who was, but is no longer, a member of the Permanent Forces (although the person may be a member of the Reserves).

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the *Naval Defence Act 1910*, this Act and the *Air Force Act 1923*. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

- (3) The members of the Tribunal shall be appointed by the Governor-General on a part-time basis.
- (4) The person appointed as President shall be a presidential member of the Commission.
- (5) A person must not be appointed as a member of the Tribunal if he or she has, at any time during the year preceding the appointment, been a member of the Permanent Forces.
- (6) The performance of the duties and functions and the exercise of the powers of the Tribunal are not affected by reason only of there being one vacancy in the membership of the Tribunal.

58H. Functions and powers of Tribunal

- (1) The functions of the Tribunal are to inquire into and determine, in accordance with this section, the matters referred to in subsection (2).
- (2) The Tribunal shall, as provided for by this section:
 - (a) inquire into and determine the salaries and relevant allowances to be paid to members; and
 - (b) inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.
- (3) The Minister or, subject to subsection (4), the Secretary or the Chief of the Defence Force may, by notice in writing given to the President, refer a prescribed matter to the Tribunal.
- (4) The Secretary or the Chief of the Defence Force shall not, without the approval in writing of the Minister, refer a prescribed matter to the Tribunal pursuant to subsection (3) if:

- (a) at any time during the preceding 12 months, the Minister has made a determination under section 58B that relates, in whole or in part, to that matter; or
 - (b) the Secretary or the Chief of the Defence Force is aware that, at any time during the preceding 12 months, submissions have been made to the Minister requesting the Minister to make a determination that relates, in whole or in part, to that matter and the Minister has not made such a determination.
- (5) The Tribunal shall, within 2 years of the commencement of this section or within such shorter period as the Minister, by notice in writing given to the President, determines, inquire into and make a determination in respect of the salaries and relevant allowances to be paid to members.
- (6) Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances:
- (a) within 2 years of the first-mentioned determination taking effect; or
 - (b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect - within that shorter period.
- (7) A determination of the Tribunal shall be in writing and shall take effect, or shall be deemed to have taken effect, on such day as the Tribunal specifies for the purpose in the determination.
- (8) The Tribunal shall not specify as the day on which a determination of the Tribunal takes effect a day earlier than the day on which the determination is made in any case where, if the determination so took effect:
- (a) the rights of a person (other than the Commonwealth) which existed immediately before the last-mentioned day would be affected in a manner prejudicial to that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth) in respect of anything done or omitted to be done before that last-mentioned day;
- and where, in a determination of the Tribunal, any provision is made in contravention of this subsection, that provision shall be of no effect.
- (9) The President shall give a copy of each determination made by the Tribunal to the Minister, to the Secretary and to the Chief of the Defence Force.
- (10) Where the Tribunal has made a determination (not being a determination made pursuant to subsection (12)), the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days of the determination being made, request the Tribunal to reconsider the determination.
- (11) A notice of request under subsection (10) shall set out the grounds on which the reconsideration is being sought.

- (12) As soon as practicable after a request is made under subsection (10) for reconsideration of a determination, the Tribunal shall reconsider the determination and shall make a further determination affirming, varying or replacing the first-mentioned determination.
- (13) The Minister shall cause a copy of each determination of the Tribunal to be laid before each House of the Parliament within 15 sitting days of that House after the determination is received by the Minister.
- (14) Any regulation made under this Act, the *Air Force Act 1923* or the *Naval Defence Act 1910*, and any determination made under section 58B of this Act, has no effect to the extent that it is inconsistent with any determination of the Tribunal.
- (15) In this section, prescribed matter means a matter in relation to which the Minister may make determinations under section 58B, not being a matter referred to in paragraph (2)(a).

58HA. Hearings in relation to discriminatory determinations

- (1) If a determination is referred to the Tribunal under section 46PY of the *Human Rights and Equal Opportunity Commission Act 1986*, the Tribunal must hold a hearing to review the determination.
- (2) Unless the hearing takes place before a single member of the Tribunal, subsections 58K(1) to (6) apply to the hearing as if it were a meeting of the Tribunal.
- (3) The Tribunal must decide whether or not the hearing is to be held in public.
- (4) If the Tribunal decides that the hearing is not to be held in public, then, subject to subsection (5) and subsections 58K(9) and 58KB(5), the Tribunal may decide the people who may be present.
- (5) The Sex Discrimination Commissioner is entitled to notice of, and to be present at, the hearing and may make submissions to the Tribunal.
- (6) In this section:

"determination" includes a variation to a determination.

"Tribunal" includes a single member conducting the Tribunal's business under a direction under subsection 58KA(1).

58HB. Review of discriminatory determinations

- (1) If:
 - (a) a determination has been referred to the Tribunal under section 46PY of the *Human Rights and Equal Opportunity Commission Act 1986*; and
 - (b) the Tribunal considers that the determination is a discriminatory determination;the Tribunal must take the necessary action to remove the discrimination, by setting aside the determination, setting aside terms of the determination or varying the determination.

(2) In this section:

"determination" has the same meaning as in section 58HA.

"discriminatory determination" means a determination that:

- (a) has been referred to the Tribunal under section 46PY of the *Human Rights and Equal Opportunity Commission Act 1986*; and
- (b) requires a person to do an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act would be done in direct compliance with the determination.

"Tribunal" has the same meaning as in section 58HA.

(3) For the purposes of the definition of *discriminatory determination* in subsection (2), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

58J. Reports by Tribunal

- (1) The Minister may, by notice in writing given to the President, request the Tribunal to inquire into and report to the Minister on a matter specified in the notice, being a matter in relation to which the Tribunal may make a determination pursuant to section 58H.
- (2) When a request is made under subsection (1), the Tribunal shall inquire into the matter concerned and give to the Minister a report in writing on that matter.

58K. Procedure of Tribunal

- (1) The President shall convene such meetings of the Tribunal as he or she considers necessary for the efficient performance of its functions.
- (2) Meetings of the Tribunal shall be held at such places as the President determines.
- (3) The President shall preside at all meetings of the Tribunal at which he or she is present.
- (4) If the President is not present at a meeting of the Tribunal, another member of the Tribunal nominated by the President shall preside at the meeting.
- (5) The Tribunal shall keep records of its meetings.
- (6) At a meeting of the Tribunal:
 - (a) 2 members of the Tribunal constitute a quorum;
 - (b) all questions shall be decided by a majority of votes of the members of the Tribunal present and voting; and
 - (c) the member of the Tribunal presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

- (7) The Tribunal shall, in making a determination, have regard to any decision of, or principles established by, the Commission that is or are, in the opinion of the Tribunal, relevant to the making of that determination.
- (8) In the performance of the functions of the Tribunal:
 - (a) the Tribunal may regulate the conduct of its proceedings as it thinks fit and is not bound to act in a formal manner; and
 - (b) the Tribunal may inform itself on any matter in such manner as it thinks fit and is not bound by the rules of evidence.
- (9) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the Tribunal, during any proceedings before the Tribunal.
- (10) Where the Tribunal thinks that a person or body should be heard in relation to a matter that is being, or is to be, considered by the Tribunal, the Tribunal may permit the person or body to be present, and to make submissions to the Tribunal, during proceedings before the Tribunal in relation to that matter.

58KA. Single member may conduct Tribunal's business

- (1) Subject to subsection (2), the President may:
 - (a) if a person referred to in subsection 58K(9) requests the President to do so and the President considers it appropriate; or
 - (b) in any case, on the Chairman's initiative;

direct, in writing, that a member of the Tribunal specified in the direction is to conduct the Tribunal's business in relation to any matter that is specified in the direction, being a matter that is being, or is to be, dealt with by the Tribunal.
- (2) The President must not, in a direction made under subsection (1), direct that a single member is to deal with a request made under subsection 58KC(1).
- (3) The President may, at any time, in writing, terminate a direction made under subsection (1).
- (4) Where a single member is conducting the Tribunal's business in relation to a matter:
 - (a) the single member may exercise any powers or perform any functions of the Tribunal in relation to that matter; and
 - (b) any act of the single member in relation to that matter is taken to be an act of the Tribunal.
- (5) In this section, a reference to a matter that is being, or is to be, dealt with by the Tribunal includes a reference to any part of such a matter.

58KB. Procedure where single member is conducting Tribunal's business

- (1) Where a single member is conducting the Tribunal's business:
 - (a) section 58K does not apply to the single member's conduct of such business; and
 - (b) the following provisions apply.
- (2) The single member may conduct such proceedings relating to the matter to which the direction relates as he or she considers necessary.
- (3) In the conduct of the Tribunal's business:
 - (a) the single member is not bound to act in a formal manner; and
 - (b) the single member may inform himself or herself on any matter in such manner as he or she thinks fit and is not bound by the rules of evidence.
- (4) The single member must, in making a determination, have regard to any decision of, or principles established by, the Commission that is or are, in the opinion of the single member, relevant to the making of that determination.
- (5) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the single member, during any proceedings conducted by the single member.
- (6) Where the single member thinks that a person or body should be heard in relation to a matter that is being, or is to be, considered by him or her, the single member may permit the person or body to be present, and to make submissions to the single member, during proceedings conducted by the single member in relation to that matter.

58KC. Review of action etc. of single member

- (1) Where:
 - (a) a single member is conducting the Tribunal's business in relation to a matter; and
 - (b) in dealing with the matter, the single member exercises a power or performs a function of the Tribunal;

the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days after the single member has completed his or her conduct of that business, request the Tribunal to reconsider the exercise of the power or performance of the function.
- (2) The notice must specify the exercise of the power or the performance of the function requested to be reconsidered and the grounds for seeking the reconsideration.
- (3) As soon as practicable after the request is made, the Tribunal must:
 - (a) reconsider the exercise of the power or performance of the function specified in the request; and

- (b) make a determination affirming, varying or replacing anything done by the single member in exercising that power or performing that function.

58KD. Determinations giving effect to agreement between the parties

The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates.

58L. Terms and tenure of office

- (1) Subject to this Division, a member of the Tribunal holds office for such period, not exceeding 5 years, as is specified in his or her instrument of appointment, but is eligible for re-appointment.
- (2) A person must not continue to hold office as a member of the Tribunal if:
 - (a) he or she becomes a member of the Permanent Forces (although he or she may become a member of the Reserves); or
 - (b) he or she becomes the Defence Force Advocate; or
 - (c) in the case of the President, he or she ceases to be a presidential member of the Commission.

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the *Naval Defence Act 1910*, this Act and the *Air Force Act 1923*. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

58M. Resignation

A member of the Tribunal may resign his or her office by writing signed by him or her and delivered to the Governor-General.

58N. Termination of appointment

The Governor-General may terminate the appointment of a member of the Tribunal by reason of misbehaviour or physical or mental incapacity.

58P. Acting appointments

- (1) The Minister may appoint a person to act as a member (including the President) of the Tribunal:
 - (a) during a vacancy in the office of that member; or
 - (b) during any period, or during all periods, when that member is absent from duty or from Australia or is, for any other reason (including the reason that, in the case of a member not being the President, he or she is acting as President), unable to perform the duties of his or her office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (2) While a person is acting as President or as a member of the Tribunal other than the President, the person has and may exercise all the powers, and shall perform all the functions, of the President or that member, as the case may be.
- (3) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (4) The Minister may:
 - (a) determine the terms and conditions of appointment, including fees and allowances, of a person acting as a member of the Tribunal; and
 - (b) terminate such an appointment at any time.
- (5) Where a person is acting as a member of the Tribunal in accordance with paragraph (1)(b) and that office becomes vacant while that person is so acting, then, subject to subsection (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (6) The appointment of a person to act as a member of the Tribunal ceases to have effect if the person resigns his or her appointment by writing signed by him or her and delivered to the Minister.
- (7) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there was a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.
- (8) A reference in section 58H, 58J, 58K, 58KA, 58KC or 58U to the President or to a member of the Tribunal shall be read as including a reference to a person acting as the President or as a member of the Tribunal, as the case may be.

58Q. Fees and allowances

- (1) A member of the Tribunal shall be paid such fees and allowances as the Remuneration Tribunal determines.
- (2) The appointment of the holder of a prescribed office as a member of the Tribunal, or service by the holder of a prescribed office as such a member, does not affect his or her tenure of that prescribed office or his or her rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of that prescribed office and, for all purposes, his or her service as a member of the Tribunal shall be taken to be service as the holder of the prescribed office.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

- 4) In this section, *prescribed office* means an office, appointment or other employment which is referred to in subsection 7(11) of the *Remuneration Tribunals Act 1973* as an office, appointment or other employment on a full-time basis or a judicial office referred to in subsection 7(12) of that Act.

Division 3 - The Defence Force Advocate

58R. Interpretation

In this Division, unless the contrary intention appears:

"Advocate" means the Defence Force Advocate appointed under section 58S.

"Remuneration Tribunal" means the Remuneration Tribunal established by subsection 4(1) of the *Remuneration Tribunal Act 1973*.

"Tribunal" means the Defence Force Remuneration Tribunal established by section 58G.

58S. Defence Force Advocate

- (1) There shall be a Defence Force Advocate, who shall be appointed by the Minister on a part-time basis.
- (2) The person appointed as the Advocate shall be a person who:
 - (a) is experienced in industrial relations matters; and
 - (b) has a knowledge of the nature of service in the Defence Force.
- (3) In making an appointment under subsection (1), the Minister shall have regard to any recommendations made by the Chief of the Defence Force.

58T. Functions of Advocate

The functions of the Advocate are:

- (a) to advise the Chief of the Defence Force in relation to matters that have been, or may be, referred to the Tribunal by the Chief of the Defence Force pursuant to subsection 58H(3);
- (b) to prepare submissions to be made to the Tribunal on behalf of the Defence Force concerning any matter that is being considered by the Tribunal; and
- (c) to represent the Defence Force in proceedings before the Tribunal.

58U. Tenure and terms of office

- (1) Subject to this Division, the Advocate holds office for 3 years, but is eligible for re-appointment.
- (2) A person shall not continue to hold the office of Advocate if he becomes a member of the Tribunal.

58V. Resignation

The Advocate may resign his office by writing signed by him and delivered to the Minister.

58W. Termination of appointment

The Minister may terminate the appointment of the Advocate by reason of misbehaviour or physical or mental incapacity.

58X. Acting Defence Force Advocate

- (1) The Minister may appoint a person to act as the Advocate:
 - (a) during a vacancy in the office of the Advocate; or
 - (b) during any period, or during all periods, when the Advocate is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) While a person is acting as the Advocate, he has and may exercise all the powers, and shall perform all the functions, of the Advocate.
- (3) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (4) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as the Advocate; and
 - (b) terminate such an appointment at any time.
- (5) Where a person is acting as the Advocate in accordance with paragraph (1)(b) and the office becomes vacant while that person is so acting, then, subject to subsection (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (6) The appointment of a person to act as the Advocate ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.
- (7) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

58Y. Fees and allowances

- (1) The Defence Force Advocate shall be paid such fees and allowances as the Remuneration Tribunal determines.
- (2) This section has effect subject to the *Remuneration Tribunal Act 1973*.

FREEDOM OF INFORMATION**Establishment**

The Tribunal was established in 1984 under Part IIIA, Division 2, of the *Defence Act 1903*.

Organisation

The Tribunal comprises three part-time members, one of whom, the President, is required to be a presidential member of the Australian Industrial Relations Commission.

Functions

The functions of the Tribunal are:

- a. to inquire into and determine the salaries and relevant allowances to be paid to members of the Australian Defence Force; and
- b. to inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.

In addition, at the request of the Minister, the Tribunal shall inquire into and report on relevant matters.

Power

The Tribunal makes determinations in respect of salaries and relevant allowances to be paid to members of the Australian Defence Force. Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances within 2 years of the first-mentioned determination taking effect or within a shorter period if requested to do so by the Minister.

Categories of documents

Documents maintained by the Tribunal include:

- submissions from interested parties, including the public;
- transcripts of Tribunal hearings;
- determinations made by the Tribunal, including reasons for decisions; and
- files dealing with matters that have been referred to the Tribunal.

FOI procedures and initial contact points

Persons wishing to gain access to documents held by the Tribunal should write to or contact the Secretary of the Tribunal at the following address:

Defence Force Remuneration Tribunal
GPO Box 2761
CANBERRA ACT 2601
Telephone: (02) 6257 3855
Fax: (02) 6257 3795
Email: dfrt@dfrt.gov.au

Inquiries

The Tribunal has not received any inquiries for access to its documents in the period covered by this Report.

LIST OF DETERMINATIONS

Determination	Subject	Date of Effect
5 of 2007	ADF Workplace Remuneration Arrangement Star Ranks Remuneration Arrangement 2006 – 2009	9 August 2007
6 of 2007	Remuneration Reform Project – Salary Rates For Other Ranks – Amendment	9 August 2007
7 of 2007	Salary of Chief of Capability Development Executive	1 July 2007
8 of 2007	Salary Rates for Senior Officers – Reserve Forces	1 July 2007
9 of 2007	Pay Grade Placement Warrant Officer Class 1 Equivalent	9 August 2007
10 of 2007	Northern Territory Emergency Response Task Force Commander Allowance	5 July 2007
11 of 2007	Graded Officer Pay Structure – Officer Placement	9 August 2007
12 of 2007	Pay Group Placements For Other Ranks and Warrant Officer Class 1 – Amendment	4 October 2007
13 of 2007	Salary of Chief of Joint Operations	27 September 2007
SO 2007/46-67	Salary For Senior Officer – Individual Determination	N/A
SO 2007/68	Salary for Task Force Commander – Operation Outreach	5 July 2007
SO 2007/69-75	Salary For Senior Officer – Individual Determination	N/A
SVC WO 2007/1-3	Service Warrant Officer – Individual Determinations	N/A
1 of 2008	Graded Officer Pay Structure Placement of Salary – Discounted Army Reserve Officers	9 August 2007
2 of 2008	Special Forces Pay Group and Pay Grade Placements	9 August 2007
3 of 2008	Pay Group And Pay Grade Placement Amendments And Salary Non-Reduction For Flight Test Engineers	9 August 2007
4 of 2008	Allowance for Specialist Operations	13 December 2007
5 of 2008	Special Action Forces Disability Allowance	13 December 2007
6 of 2008	Separation Allowance Determination Amendment	28 June 2007
7 of 2008	Annual Salary Rates For Officers Of The Reserves Who Hold Specified Appointments	1 May 2008
8 of 2008	Air Force Supply and Movement Employment Categories - Pay Group Amendments	1 July 2008
9 of 2008	Navy Capability Allowance	9 Apr 2008
10 of 2008	ADF Workplace Remuneration Arrangement 2006 – 2009 and Star Ranks Remuneration Arrangement 2006 – 2009	1 May 2008
11 of 2008	Warrant Officer Class 1 – Pay Grade Amendments	9 August 2007

12 of 2008	Paratrooper Allowance – Amendment	21 February 2007
13 of 2008	Flying and Flight Duties Allowance	4 June 2008
14 of 2008	Submarine Service Allowance	4 June 2008
15 of 2008	Salaries	1 July 2008
SO 2008/1-17	Salary For Senior Officer – Individual Determination	N/A
SO 2008/18-23	Salary For Senior Officer – Individual Determination	N/A
SO 2008/24-26	Salary For Senior Officer – Individual Determination	N/A
SO 2008/27-32	Salary For Senior Officer – Individual Determination	N/A
SO 2008/33-38	Salary For Senior Officer – Individual Determination	N/A

<i>SECRETARIAT</i>

Secretary:	Chris J Wallace
Adviser:	Jason Window
Office Manager:	Peta Withers
Telephone No:	(02) 6257 3855
Postal Address:	GPO Box 2761 CANBERRA ACT 2601
Web Site Address:	www.dfrt.gov.au

The support of a capable and engaged secretariat is a necessity for a part-time Tribunal. In this case, there is also a requirement that the secretariat has knowledge of and, ideally, experience of service life. Given the scale of change made in recent years to ADF pay arrangements, continuity has been a further asset.

We are therefore particularly grateful for the capable support of Mr Wallace and his small team. We value it highly and place that gratitude on record.

COMPLIANCE INDEX

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